

Program, which provides a model for implementing the A/P consistency program. Recommendations are presented in Chapter 6.

Two options are not discussed: (1) an independent CCMP review process, which would duplicate existing intergovernmental review activities; and (2) coordination with the Section 401 Certification Program. Under Section 401 of the Clean Water Act, Federal agencies cannot license or permit an activity until the State certifies that the proposed activity will not violate State water quality standards. In North Carolina, the 401 Certification Program provides a vehicle for the Division of Environmental Management (DEM) to comment on Section 404 permits to fill wetlands. Although DEM seldom denies 401 certification, the program enables DEM to require modifications that minimize the acreage of wetlands impacted by proposed projects.

The Section 401 Certification Program is too limited in its scope (i.e., Federal licenses and permits) to serve as the basis for a consistency process. The 401 Program cannot provide access to review Federal assistance programs or direct development projects, as mandated by Section 320(b)(7). Due to these limitations, the 401 Program cannot accommodate the A/P consistency program.

Further, the primary benefit from integration with the 401 Certification Program (access to review issuance of Federal licenses and permits) can be obtained through integration with the Coastal Zone Management consistency program. The Coastal Zone Management consistency program also requires 401 Certification for applicable projects. Therefore, integration with the Coastal Zone Management consistency program would indirectly integrate the A/P consistency process with the 401 Certification Program. The A/P program can also interact directly in the 401 review process by submitting comments during the public comment period required for 401 certification of individual 404 permits.

The final selection of an A/P consistency review strategy will depend upon whether the A/P study is terminated following completion of the CCMP. To date, the future of the Management Conference and the A/P staff positions is uncertain. The Management Conference will have to assign A/P review authority to other State agencies if the Management Conference and the the A/P staff positions are eliminated.